

### **REMARKS**

Claims 1-11, 26-31, 35, and 37 are pending. In the Office Action, claims 1-11 and 26-31 were rejected under 35 U.S.C. § 102(e) as allegedly anticipated by published UK Patent Application GB 2410554 (“Gale”). Claims 35 and 37 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Gale in view of Official Notice.

The rejections of all pending claims should be withdrawn because Gale cannot properly be used as a reference under Section 102(e). That provision would allow the Examiner to base claim rejections only on a reference that is:

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language[.]

35 U.S.C. § 102(e). Gale is clearly not “an application for patent . . . filed in the United States,” nor is Gale “a patent granted on an application for patent by another filed in the United States.” Moreover, Gale is not “an international application filed under the treaty defined in section 351(a).” Instead, Gale is a patent application filed in the United Kingdom. As such, Gale does not qualify as prior art under Section 102(e), and the present rejections of Applicants’ claims based on Gale must be withdrawn. Further, Gale was published August 3, 2005, after the filing date of the present application, and therefore Gale cannot be cited as prior art under 35 U.S.C. § 102(a) or (b).

In view of the following arguments, all claims are believed to be in condition for allowance over the prior art of record. Therefore, this response is believed to be a complete response to the Office Action. However, Applicants reserve the right to set forth further arguments supporting the patentability of their claims, including the separate patentability of the dependent claims not explicitly addressed herein, in future papers. For example, Applicants believe claims 35 and 37 to be separately patentable. With regard to the Examiner’s taking of Official Notice in rejecting claims 35 and 37, Applicants disagree with the taking of Official Notice, and respectfully request

that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

### **CONCLUSION**

All rejections have been addressed. In view of the above, the presently pending claims are believed to be in condition for allowance. Accordingly, reconsideration and allowance are respectfully requested and the Examiner is respectfully requested to pass this application to issue. It is believed that any fees associated with the filing of this paper are identified in an accompanying transmittal. However, if any additional fees are required, they may be charged to Deposit Account 18-0013, under Order No. 65856-0054. To the extent necessary, a petition for extension of time under 37 C.F.R. 1.136(a) is hereby made, the fee for which should be charged against the aforementioned account.

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Respectfully submitted,

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